IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No.322 of 2006

Date of Decision: November 19, 2007

Kirpal Singh .....Petitioner

Versus

Bank of India .....Respondent

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Kanwaljit Singh, Senior Advocate with
Mr.IS Gill, Advocate for the petitioner.

Mr.GS Anand, Advocate for the respondent.

S. D. ANAND, J.

1. The petitioner, a Non- Resident Indian and a landlord within the ambit of Section 2(dd) of East Punjab Urban Rent Restriction Act, filed a plea for the ejectment of the respondent-Bank from the premises under reference, of which he was a co-owner. Though findings on all other points upheld the plea raised by the petitioner, he was non-suited on account of his inability to place on record the title deed vide which he had acquired title, as a co-owner of the premises under reference.

2. Along with the present revision petition directed against the order dated 8.9.2005, the petitioner also filed an application under Order 41 Rule 27 of the Code of Civil Procedure craving the leave of this Court to adduce additional evidence and to thereby prove on record registered sale-deed, Annexure P3.

3. In the present case, the learned Rent Controller did notice that the two representatives RW1-S.S.Arora and RW2-Shri Baldev Raj-officials of the respondent-Bank) had conceded the joint ownership of the petitioner but it declined to place reliance upon the 'admission' made by them on the premise that there is nothing to show that they had ever inspected the title deeds qua that property. Further, though the learned Rent Controller noticed that the evidence had been adduced on the file to prove that the petitioner had been approaching the officials of the respondent-Bank for enhancement of the rate of interest and that the rent was also proved to have been credited in the joint account (of which the petitioner was one of the holders), it held that it can "at the most be said to be the piece of evidence to prove the fact that the petitioner is also one of the landlords of the property in question". The learned Rent Controller further recorded that "however, in order to seek the ejectment of the tenant on the ground enshrined in Section 13-B of the Act, the petitioner cannot succeed on the claim of being landlord only rather he has to prove his ownership over the property in question. When the petitioner could have shut the mouth of the respondent by producing the sale deed, it is not understandable as to why the sale deed relating to the property in question has not been produced on the record. The failure on the part of the petitioner to produce the sale deed relating to the property in question and that too without any explanation for the same, creates serious doubt in the mind of the court with regard to the title of the petitioner. Since the petitioner is guilty of with-holding the best evidence available with him, an adverse inference is liable to be drawn against him. Under these circumstances, I am of the opinion that the petitioner cannot be said to be the owner of the premises in question". In the course of hearing

before this Court, the learned counsel for the respondent could not forcefully contest the averment on behalf of the petitioner that the interests of justice would be served if the plea under Order 41 Rule 27 of the Code of Civil Procedure, preferred by the petitioner before this Court, is allowed and the learned Rent Controller directed to decide the matter afresh after affording an opportunity to the petitioner to prove the registered sale-deed, Annexure P3.

4. In the light of foregoing discussion, the petition shall stand allowed. The matter is remitted to the learned Rent Controller for a decision afresh after allowing the petitioner-landlord to prove the registered sale-deed, Annexure P3. Of course, the respondent-tenant shall also have an opportunity to rebut the evidence aforementioned.

5. The parties, through their learned counsel, are directed to appear before the learned Rent Controller, on 3.12.2007. Learned Rent Controller shall conclude the adjudication on merits within one month from 3.12.2007.

(S. D. ANAND)
JUDGE

November 19, 2007
SRM

Note: Whether referred to reporter ? Yes/No